

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION

Paul Newman Allen,) C/A NO. 8:04-1957-CMC-BHH
)
Plaintiff,) **ORDER**
)
v.)
)
George Gintoli; Russell Hughes; Brenda)
Young-Rice; South Carolina Department)
of Mental Health,)
)
Defendants.)
)

This action was brought by an individual proceeding *pro se* who seeks relief pursuant to 42 U.S.C. § 1983. Defendants filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff has not responded.

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Civil Rule 73.02 (B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pre-trial proceedings and a Report and Recommendation. On January 4, 2006, the Magistrate Judge issued a Report recommending that this action be dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b). The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff has filed no objections to the Report and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (internal quotation omitted).

After reviewing the complaint, the record, and the Report and Recommendation of the Magistrate Judge, the court agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that this action is **DISMISSED** for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b). This dismissal shall be with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON McGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 6, 2006